



DEPARTMENT OF COMMERCE

International Trade Administration

Application No. 14-00004

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review to DFA of California, Application no. 14-00004.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (“OTEA”) of the International Trade Administration, Department of Commerce, issued an Export Trade Certificate of Review to DFA of California on March 2, 2015.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or email at etca@trade.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Members (within the meaning of 15 C.F.R. 325.2(1))

1. Alpine Pacific Nut Company (Hughson, CA)
2. Andersen & Sons Shelling (Vina, CA)
3. Avanti Nut Company, Inc. (Stockton, CA)

4. Berberian Nut Company, LLC (Chico, CA)
5. Carriere Family Farms, Inc. (Glenn, CA)
6. Continente Nut LLC (Oakley, CA)
7. Crain Walnut Shelling, Inc. (Los Molinos, CA)
8. Crisp California Walnuts (Stratford, CA)
9. Diamond Foods, Inc. (Stockton, CA)
10. Empire Nut Company (Colusa, CA)
11. Gold River Orchards, Inc. (Escalon, CA)
12. Grower Direct Nut Company (Hughson, CA)
13. GSF Nut Company (Orosi, CA)
14. Guerra Nut Shelling Company (Hollister, CA)
15. Hill View Packing Company Inc. (Gustine, CA)
16. Linden Nut Company (Linden, CA)
17. Mariani Nut Company (Winters, CA)
18. Mariani Packing Company, Inc. (Vacaville, CA)
19. Mid Valley Nut Company Inc. (Hughson, CA)
20. National Raisin Company (Fowler, CA)
21. Poindexter Nut Company (Selma, CA)
22. Prima Noce Packing (Linden, CA)
23. Sacramento Packing, Inc. (Yuba City, CA)
24. Sacramento Valley Walnut Growers, Inc. (Yuba City, CA)
25. San Joaquin Figs, Inc. (Fresno, CA)
26. Shoei Foods USA, Inc. (Olivehurst, CA)
27. Stapleton-Spence Packing (Gridley, CA)
28. Sunsweet Growers Inc. (Yuba City, CA)
29. T.M. Duche Nut Company, Inc. (Orland, CA)
30. Wilbur Packing Company, Inc. (Live Oak, CA)
31. Valley Fig Growers (Fresno, CA)

Description of Certified Conduct

DFA of California ("DFA") is certified to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets.

Export Trade

Products: California Figs, Prunes, and Walnuts in processed and unprocessed form.

Export Trade Facilitation Services (as They Relate to the Export of Products): All export trade-related facilitation services, including but not limited to: development of trade strategy; sales, marketing, and distribution; foreign market development; export promotion; and services related to trade documentation, foreign exchange, customs, duties, taxes, inspection, and quality control.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operations

For purposes of the Certificate of Review, "members" and "membership" refer to members of and membership in DFA of California; and "Members" and "Membership" refer to Members under the Certificate within the meaning of 15 C.F.R. 325.2(1).

1. To engage in Export Trade in the Export Markets, DFA and Members may, subject to the Terms and Conditions below, exchange and discuss the following information:
 - a. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, transmodal or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties and taxes;
 - b. Information about U.S. and foreign legislation and regulations, including federal marketing order programs, affecting sales of Products for the Export Markets;
 - c. Information about DFA's or its Members' export operations, including without limitation, sales and distribution networks established by DFA or its Members in the Export Markets;

- d. Information about the credit terms extended to, and credit history of, export customers.
2. To engage in Export Trade in the Export Markets, DFA and its Members may, subject to the Terms and Conditions below, and further subject to the condition that the information is either (1) publicly available, or (2) if not publicly available, then compiled and distributed only in aggregate and summary form, by a person who is not employed by, nor affiliated with, a Processor or Packer, and in a manner that does not disclose either directly or by inference information about a transaction of any specific Member, exchange and discuss the following information:
 - a. With respect to the Export Markets, information about sales and marketing efforts, activities and opportunities for sales of Products, selling strategies, sales contracts, pricing, projected demand, customary terms of sale, and specifications for Products by customers in the Export Markets;
 - b. With respect to Products available from Members for export, information about price, quality, and quantity; and
 - c. Information about prior export sales by Members, including export prices.
 3. DFA and its Members may meet to engage in the activities described in paragraphs 1 and 2 above.
 4. DFA and its Members may prescribe the following conditions for admission and termination of members of DFA as participants in the Export Trade Activities and Methods of Operation and as Members of the Certificate (within the meaning of 15 CFR 325.2(1)) ("Membership"):
 - a. DFA may limit Membership to Fig, Prune, or Walnut Processors or Packers as defined under "Definitions."
 - b. DFA may terminate Membership on the occurrence of one or more of the following events:
 - i. Withdrawal or resignation of a Member;
 - ii. Expulsion approved by a majority of all Members for a material violation of DFA's by-laws, after prior written notice to the Member proposed to be expelled

and an opportunity of such Member to appear and be heard before a meeting of the Members;

- iii. Death or permanent disability of a Member who is an individual or the dissolution of a Member other than an individual; or
- iv. The bankruptcy of a Member, as provided in DFA's by-laws.

5. DFA and its Members may establish the following Minimum Qualifications for Members to participate in the DFA's Export Committees for Figs, Natural Condition Prunes, Prune Processors and Walnuts. There are no additional requirements for participation in the Fig and Walnut Export Committees.

- a. A participant in any of the Export Committees must be:
 - i. A DFA Member;
 - ii. Owner of a commercially viable processing facility;
 - iii. In good standing with DFA credit terms (Payment net 30); and
 - iv. With personal and business conduct consistent with the highest industry standards as necessary to protect the integrity of the committee.
- b. Fig Export Committee: A participant must meet the Minimum Qualifications.
- c. Natural Condition Prune Export Committee: In addition to meeting the Minimum Qualifications, participation in this export committee requires that the Member be a packer of natural condition prunes for export.
- d. Prune Processor Export Committee:
 - i. In addition to meeting the Minimum Qualifications, participation in this export committee requires that the Member be a processor of processed prunes for export;
 - ii. Participation also requires that the Member has the capability to thermally process and pack fruit into a consumer-ready product to a minimum 25% moisture level suitable for end user consumption.
- e. Walnut Export Committee: A participant must meet the Minimum Qualifications.

6. Export Committees can elect to have guest speakers (such as economists, university professors, or researchers) present relevant industry information during the meetings.

Definition

1. "Processor or Packer" means a person or entity that processes or packs figs, prunes or walnuts grown in California.
2. "Member" means the Members of DFA listed in Attachment A and any other members of DFA added as Members under the Certificate through amendment of the Certificate.
3. "Natural Condition Prunes" means prunes (with pits) in the condition in which they are normally delivered from a dry yard or dehydrator and may include:
 - a. Prunes which have been washed but which retain natural condition;
 - b. Prunes which will permit normal bulk storage without adding a preservative;
 - c. Prunes which will permit normal bulk storage without adding a preservative;
 - d. Prunes which have been size graded;
 - e. Prunes which may have been processed and re-dried to acceptable natural condition moisture content; and
 - f. Prunes in which the average moisture content of a lot is 21% or less.
4. "Processed Prunes" means prunes which have been thermally processed (*e.g.*, treated with hot water or steam) in the course of their preparation for packaging to the extent that their condition no longer meets the definition of "natural condition."

Terms and Conditions of the Certificate

1. Neither DFA nor any Member shall intentionally disclose, directly or indirectly, to DFA or to any other Member any information about its own or any other Member's costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, U.S. business plans, strategies, or methods that is (1) not already generally available to the trade or public; or (2) made in connection with the administration of a United States Department of Agriculture marketing order for any Product.
2. Meetings at which DFA Members discuss the information under paragraphs 1 of the Export Trade Activities and Methods of Operations above shall not be open to the public.
3. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member. A Member may withdraw from

Membership under this Certificate at any time by giving a written notice to DFA, a copy of which DFA shall promptly transmit to the Secretary of Commerce and the Attorney General.

4. DFA and its Members will comply with requests made by the Secretary of Commerce, on behalf of the Secretary or the Attorney General, for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Dated: March 12, 2015

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BILLING CODE 3510-DR-P

[FR Doc. 2015-06248 Filed: 3/17/2015 08:45 am; Publication Date: 3/18/2015]